

## **Certification and Assurances Instructions**

To receive Section 5310 funding for eligible activities, vehicle, an applicant must provide certain certifications and assurances required by Federal laws and regulations. The certifications and assurance are a compilation of Federal certification and assurance requirements for the Section 5310 program and represent FTA's current expectations concerning the responsibilities of the grant applicants. Accompanying the certifications and assurances is a signature page, which allows the applicant to certify compliance with all certifications and assurances pertinent to the Section 5310 program. The signature page is to be signed by the applicants authorized representative.

Please be advised that these certifications and assurances will be updated each Federal Fiscal Year in October. DTC will distribute updated certifications and assurances each year and they are required to be signed and returned to DTC.

**Federal Fiscal Year 2021**  
**FTA Section 5310 Capital Assistance Program**  
**Standard Assurances**

Legal Name of Organization: \_\_\_\_\_

The applicant organization hereby agrees to the following Standard Assurances pursuant to the Section 5310 program:

**1. Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions**

As required by U.S. DOT regulations on Government-wide Debarment and Suspension (Non-procurement) at 49 CFR 29.510:

- A) The Applicant (Primary Participant) certifies to the best of its knowledge and belief, that it and its principals:
1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  2. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  3. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in paragraph (2) of this certification; and
  4. have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.
- B) The Applicant also certifies that if, later, it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to FTA.
- C) If the Applicant (Primary Participant) is unable to certify to the statements within paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to FTA.

**2. Civil Rights Assurances**

**Nondiscrimination Assurance**

As required by 49 U.S.C. 5332, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2002d, and U.S. DOT regulations, A Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, Title VI Program Guidelines for Federal Transit Administration Recipients" and FTA Circular 47021B, policy guidelines concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087); and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- A) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- B) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.
- C) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.
- D) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.
- E) As required by 49 CFR 21.7(a)(2), the Applicant will include appropriate clauses in each third party contract or sub-agreement to impose the requirements of 49 CFR part 21 and 49 U.S.C. 5332, and include appropriate provisions imposing those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

### **Equal Employment Opportunity**

- A) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Applicant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Applicant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Applicant agrees to comply with any implementing requirements FTA may issue.
- B) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Applicant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Applicant agrees to comply with any implementing requirements FTA may issue.

- C) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Applicant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Applicant agrees to comply with any implementing requirements FTA may issue.
- D) The Applicant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

### **3. School Transportation Agreement**

An Applicant seeking FTA assistance to acquire or operate transportation facilities and equipment acquired with Federal assistance authorized by 49 U.S.C. chapter 53 must agree as follows. FTA may not provide assistance for transportation facilities until the Applicant enters into this Agreement by selecting Category VIII on the Signature Page.

- A) As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Applicant agrees that it and all its recipients will: (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323(f), and implementing regulations, and (2) comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. awarded by FTA for transportation projects.
- B) The Applicant understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, the definitions of 49 CFR part 605 apply to this school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

### **4. Conservation**

The Applicant shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 US Section 6321 et seq.).

### **5. No Government Obligation to Third Parties**

The Applicant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Applicant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Applicant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**6. Program Fraud and False Or Fraudulent Statements and Related Acts**

The Applicant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Applicant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Applicant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Applicant to the extent the Federal Government deems appropriate.

A) The Applicant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Applicant, to the extent the Federal Government deems appropriate.

B) The Applicant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**7. Access Requirements For Individuals With Disabilities**

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. &sect; 794, prohibits discrimination on the basis of handicap by recipients of Federal financial assistance. The Americans with Disabilities Act of 1990, as amended, (ADA) specifies the Federal civil rights of individuals with disabilities as well as imposing specific requirements on public and private providers of transportation. Section 5310 recipients must comply with 49 C.F.R. Parts 27, 37, and 38, implementing the ADA and amending the Section 504 rule. Among other provisions, the regulations: prohibit discrimination against individuals with disabilities; require that vehicles acquired be accessible to and usable by individuals with disabilities, including individuals using wheelchairs (with limited exceptions for demand responsive systems providing equivalent service to individuals with disabilities or a demonstration of inability to obtain an accessible vehicle despite good faith efforts to do so). In addition, recipients of any FTA funds should be aware that they also have responsibilities under other provisions of ADA in the areas of employment, public accommodations, and telecommunications.

**8. Clean Water Requirements**

The Applicant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Applicant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Applicant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**9. Clean Air Requirements**

The Applicant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Applicant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Applicant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**10. Certification Of Restrictions On Lobbying**

The subrecipient certifies, to the best of its knowledge and belief, that:

- A) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification thereof.
- B) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)).
- C) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure

The subrecipient affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the bidder or offeror understands and agrees that the provisions of 31 U.S.C. §§ 3801 et seq. Apply to this certification and disclosure, if any.

BY ENDORSING THIS SIGNATURE PAGE, I \_\_\_\_\_ (name) declare that I am duly authorized by the Applicant to make the certifications and assurances on behalf of the Applicant and bind the Applicant to comply with them. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for any application it makes to the Federal Transit Administration (FTA) during Federal Fiscal Year 2019.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 et seq., as implemented by U.S. DOT regulations, Program Fraud Civil Remedies, @ 49 CFR part 31 apply to any certification, assurance or submission made to FTA". The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance or submission made in connection with the FTA formula assistance program for urbanized areas, and may apply to any other certification, assurance or submission made in connection with any program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statement made by me on behalf of the Applicant are true and correct.

\_\_\_\_\_  
Signature of Authorized Representative of Applicant

\_\_\_\_\_  
Name and Title of Authorized Official

\_\_\_\_\_  
Date

## **Title VI Requirements**

**REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM.** Title 49 CFR Section 21.9(b) requires recipients to “keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this [rule].” FTA requires that all direct and primary recipients document their compliance with DOT’s Title VI regulations by submitting a Title VI Program to their FTA regional civil rights officer once every three years or as otherwise directed by FTA. For all recipients (including subrecipients), the Title VI Program must be approved by the recipient’s board of directors or appropriate governing entity or official(s) responsible for policy decisions prior to submission to FTA. For State Chap. III-2 FTA C 4702.1B DOTs, the appropriate governing entity is the State’s Secretary of Transportation or equivalent. Recipients shall submit a copy of the board resolution, meeting minutes, or similar documentation with the Title VI Program as evidence that the board of directors or appropriate governing entity or official(s) has approved the Title VI Program. FTA will review and concur or request the recipient provide additional information. Subrecipients shall submit Title VI Programs to the primary recipient from whom they receive funding in order to assist the primary recipient in its compliance efforts. Such Programs may be submitted and stored electronically at the option of the primary recipient. Subrecipients may choose to adopt the primary recipient’s notice to beneficiaries, complaint procedures and complaint form, public participation plan, and language assistance plan where appropriate. Operational differences between the primary recipient and subrecipient may require, in some instances, that the subrecipient tailor its language assistance plan. Subrecipients shall develop and submit to the primary recipient a list of complaints, investigations, or lawsuits. Subrecipients that have transit-related non-elected planning boards, advisory councils, or committees, the membership of which is selected by the subrecipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees. Subrecipients must submit all the above information to the primary recipient on a schedule requested by the primary recipient. Collection and storage of subrecipient Title VI Programs may be electronic at the option of the primary recipient.

**TITLE VI NOTICE TO THE PUBLIC (GENERAL REQUIREMENT)** Background A Title VI Notice to the Public must be displayed to inform a recipient’s customers of their rights under Title VI. At a minimum, recipients must post the notice on the agency’s website and in public areas of the agency’s office(s), including the reception desk, meeting rooms, etc. Many agencies display their Title VI Notices in transit facilities (e.g., headquarters, transit shelters and stations, etc.), and on transit vehicles (e.g., buses, rail cars, etc.). The Title VI Notice is a vital document. If any of the Limited English Proficient (LEP) populations in your service area meet the Safe Harbor threshold (see Chapter III), then the Notice should be provided in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor Threshold. At a minimum, this statement in the Notice—“If information is needed in another language, then contact [phone number]”—should be stated in English and in any other language(s) spoken by LEP populations that meet the Safe Harbor threshold. The sample below is provided for the purposes of guidance only.

**SAMPLE Title VI Notification to the Public Notifying the Public of Rights Under Title VI:**

**THE CITY OF USA •** The City of USA operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of USA. • For more information on the City of USA’s civil rights program, and the procedures to file a complaint, contact 800-555-1212, (TTY 800-555- 1111); email [title.vi.complaint@city.ca.us](mailto:title.vi.complaint@city.ca.us); or visit our administrative office at 1234 Center Street, City of USA, State 11111. For more information, visit



www.city.ca.us • A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590 • If information is needed in another language, contact 800-555-1212. • MAKE SURE THE SENTENCE ABOVE IS ALSO PROVIDED IN ANY LANGUAGE(S) SPOKEN BY LEP POPULATIONS THAT MEET THE SAFE HARBOR THRESHOLD

Nondiscrimination – Title VI – The recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient in any tier of the project, will follow requirements under Title VI of the Civil Rights Act of 1964. For additional guidance please refer to U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act” 49 CFR part 21 and FTA Circular 4702.1B “Title VI Requirement and Guidelines for Federal Transit Administration Recipients”.

BY ENDORSING THIS SIGNATURE PAGE, I \_\_\_\_\_ (name) declare that I am duly authorized by the Applicant to assure that Applicant agrees to comply with all Federal Title VI regulation, executive orders, and administrative guidance required for any application it makes to the Federal Transit Administration (FTA) during Federal Fiscal Year 2020.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C.3801 et seq., as implemented by U.S. DOT regulations, Program Fraud Civil Remedies, @ 49 CFR part 31 apply to any certification, assurance or submission made to FTA”. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance or submission made in connection with the FTA formula assistance program for urbanized areas, and may apply to any other certification, assurance or submission made in connection with any program administered by FTA.

In signing this document, I declare under penalties of perjury that the Title VI information and any other statement made by me on behalf of the Applicant are true and correct.

\_\_\_\_\_  
Signature of Authorized Representative of Applicant

\_\_\_\_\_  
Name and Title of Authorized Official

\_\_\_\_\_  
Date

